



2011  
Annual Report  
of the  
State Drug Treatment Court  
Advisory Committee

Submitted to the

Michigan Legislature and the Michigan Supreme Court

Pursuant to MCL 600.1082, Public Act 224 of 2004.

For the period

**January 1, 2011 through December 31, 2011**

State of Michigan

**The Honorable William Rush, Chair**

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# INTRODUCTION

This report of the State Drug Treatment Court Advisory Committee (SDTCAC) activities during the period of January 1, 2011 to December 31, 2011 is submitted in compliance with MCL 600.1082 (Public Act 224 of 2004).

## OVERVIEW

### MISSION STATEMENT

The mission of the State Drug Treatment Court Advisory Committee is to monitor and advocate for the effectiveness of drug treatment courts in Michigan.

### ORIGIN AND SCOPE

Public Act 224 of 2004 created the State Drug Treatment Court Advisory Committee within the Legislative Council. The advisory committee consists of the State Court Administrator, or his or her designee, plus 16 members appointed jointly by the Senate Majority Leader and the Speaker of the House, as follows:

- A circuit court judge who has presided for at least 2 years over a drug treatment court.
- A district court judge who has presided for at least 2 years over a drug treatment court.
- A judge of the family division of circuit court who has presided for at least 2 years over a juvenile drug treatment court program.
- A circuit or district court judge who has presided for at least 2 years over an alcohol treatment court.
- A court administrator who has worked for at least 2 years with a drug or alcohol treatment court.
- A prosecuting attorney who has worked for at least 2 years with a drug or alcohol treatment court.
- An individual representing law enforcement in a jurisdiction that has had a drug or alcohol treatment court for at least 2 years.
- An individual representing drug treatment providers who has worked at least 2 years with a drug or alcohol treatment court.
- An individual representing defense attorneys who has worked for at least 2 years with drug or alcohol treatment courts.
- An individual who has successfully completed a drug treatment court program.
- An individual who has successfully completed a juvenile drug treatment court program.
- An individual who is an advocate for the rights of crime victims.
- An individual representing the Michigan Association of Drug Court Professionals.
- An individual who is a probation officer and has worked for at least 2 years for a drug or alcohol treatment court.
- An individual representing a substance abuse coordinating agency.



- An individual representing domestic violence service provider programs that receive funding from the state domestic violence prevention and treatment board.

The SDTCAC members serve without compensation, but may be reimbursed for their actual and necessary expenses incurred in the performance of their duties. Members of the advisory committee serve for terms of 4 years each.

The SDTCAC is charged with the responsibility of monitoring the effectiveness of drug treatment courts and the availability of funding for them. The Committee is required to present to the Michigan Legislature and the Michigan Supreme Court annual recommendations of proposed statutory changes regarding drug treatment courts. In addition, statute requires that the Committee meet at least quarterly, or more frequently at the call of the chairperson or if requested by 9 or more members. The business that the advisory committee performs is conducted at a public meeting held in compliance with the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275, and any writing prepared, owned, used, in the possession of, or retained by the advisory committee in the performance of an official function is subject to the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246.

## 2011 COMMITTEE MEMBERS

**Mr. Richard Woods** - The state court administrator or his or her designee.

*Members appointed jointly by the Speaker and the Senate Majority Leader:*

**Judge Patrick C. Bowler, ret. (Chair)** - An individual representing the Michigan Association of Drug Court Professionals. Judge Bowler resigned from the Committee effective March 18, 2011. **Judge Michael J. Haley** of Traverse City was appointed to fill this position effective March 18, 2011. His appointment is to a term that expires on June 13, 2011 and a second term that expires on June 13, 2015.

**Judge William Rush (Chair as of May 24, 2011)** - A district court judge who has presided for at least 2 years over a drug treatment court. Judge Rush was reappointed to a second term that expires on June 13, 2013. Judge Rush was elected Chair of the Committee at the May 24, 2011 meeting.

**Ms. Pamela Davis (Vice Chair as of May 24, 2011)** - A court administrator who has worked for at least 2 years with a drug or alcohol treatment court. Ms. Davis was reappointed to a second term that expires on June 13, 2013. She was elected Vice Chair of the Committee at the May 24, 2011 meeting.

**Ms. Kathleen Brickley** - An individual representing defense attorneys who has worked for at least 2 years with drug or alcohol treatment courts. Ms. Brickley was reappointed to a second term that expires on June 13, 2012.

**Ms. Sophia Burr** - An individual who has successfully completed a juvenile drug treatment court program. Ms. Burr was appointed to the Committee on March 11, 2009 to a term that expired on June 13, 2011. She did not seek reappointment and the position is currently vacant.

**Judge William T. Ervin** - A judge of the family division of circuit court who has presided for at least 2 years over a juvenile drug treatment court program. He was reappointed to a second term that expires on June 13, 2013.

**Judge Allen Garbrecht** - A circuit court judge who has presided for at least 2 years over a drug treatment court. Judge Garbrecht was appointed to the Committee on March 18, 2011 to fill a term that expires on June 13, 2013.



**Ms. Nadine Issacs** - An individual who has successfully completed an adult drug treatment court program. Ms. Issacs was appointed on March 18, 2011 to fill an open seat and her term expires on June 13, 2012.

**Mr. Kevin Jones** - An individual who is a probation officer and has worked for at least 2 years for a drug or alcohol treatment court. Mr. Jones tendered his resignation on March 27, 2011. **Ms. Stephanie Drury**, a probation officer with the Michigan Department of Corrections, was appointed to fill Mr. Jones' position on July 27, 2011. She was reappointed to a second term that expires on August 4, 2015.

**Ms. Janette Kolodge** - An individual who is an advocate for the rights of crime victims. Ms. Kolodge was appointed to the Committee on March 18, 2011 and to a second term that expires on June 13, 2015.

**Mr. Andrew Konwiak** - An individual representing drug treatment providers who has worked at least 2 years with a drug or alcohol treatment court. He was reappointed to a second term that expires June 13, 2012.

**Judge Amy Krause** - An individual representing domestic violence service provider programs that receive funding from the state domestic violence prevention and treatment board. Judge Krause was appointed to the Committee on March 18, 2011 and to a second term that expires June 13, 2015.

**Mr. Christopher Luty** - An individual representing law enforcement in a jurisdiction that has had a drug or alcohol treatment court for at least 2 years. Mr. Luty was appointed on March 11, 2009 to a term that expires June 13, 2012.

**Judge Brian MacKenzie** - A circuit or district court judge who has presided for at least 2 years over an alcohol treatment court. Judge MacKenzie was reappointed to a second term that expires on June 13, 2013.

**Mr. Dennis Priess** - An individual representing a substance abuse coordinating agency. Mr. Priess resigned from the Committee on February 28, 2011. **Mr. Mark A. Witte** of Grand Rapids was appointed to fill this position on March 18, 2011 and to a second term that expires June 13, 2015.

**Mr. Jeffrey Sauter** - A prosecuting attorney who has worked for at least 2 years with a drug or alcohol treatment court. Mr. Sauter was reappointed to a second term that expires on June 13, 2012.

## 2011 COMMITTEE MEETINGS

The State Drug Treatment Court Advisory Committee held five (5) full committee meetings in 2011:

January 25, 2011  
May 24, 2011  
July 26, 2011  
September 27, 2011  
November 22, 2011

In addition, strategic planning sessions were held following the May 24, 2011 and July 26, 2011 meetings. Four goals were set for 2011:

1. To monitor the effectiveness of the State Drug Treatment Court Advisory Committee.
2. To monitor the qualitative effectiveness of Michigan drug treatment courts.
3. To advocate for drug treatment courts in Michigan.
4. To improve the Michigan drug treatment court statute.



## 2011 STUDY SUBCOMMITTEES

In 2011, eleven (11) subcommittees and one (1) ad hoc committee examined various subjects under review by the State Drug Treatment Court Advisory Committee.

### **Certification Subcommittee**

*Members: Judge William Rush (Chair), Kevin Jones, Richard Woods*

Created at the January 24, 2006 meeting, this subcommittee examined the need for legislative change to require certification of drug treatment courts. The subcommittee's 2006 recommendation that the definition of a drug treatment court be changed to require compliance with the 10 Key Components was included in Public Act 620 of 2006 and went into effect January 3, 2007. The Committee determined that no further review by the subcommittee is necessary. The Certification Subcommittee was, therefore, dissolved by action taken at the May 24, 2011 meeting.

### **Confidentiality Issues Subcommittee**

*Members: Jeffrey Sauter (Chair), Judge Brian MacKenzie, Dennis Priess, Richard Woods*

Created in 2006, this subcommittee continued its review of confidentiality issues between Michigan statutes and federal regulations. Actions taken in 2011 included the review of a 2008 Florida Supreme Court Task Force report that concluded that 42CFR does not apply to drug treatment courts.

### **Cross-Assignment Subcommittee**

*Members: Judge Michael Haley (Chair), Judge Allen Garbrecht, Jeffrey Sauter, Richard Woods*

This subcommittee was created at the March 28, 2006 meeting to determine whether a recommendation should be made for the Legislature to encourage the cross-assignment of drug treatment court cases across jurisdictions to maximize court funding resources. The 2006 SDTAC recommendation to allow cross assignment of drug court cases was included in Public Act 620 of 2006 and went into effect January 3, 2007. The subcommittee's continued review in 2011 included issues such as jurisdiction, transfer forms, and payment of program participation fees and treatment costs.

### **Defense Attorney Participation Subcommittee**

*Members: Kathleen Brickley (Chair), Thomas Dutcher, Derwood Haines, Mike Hills, Judge Brian MacKenzie*

This subcommittee was created at the January 23, 2007 meeting to examine the defense attorney's role in the drug court process and funding for defense counsel involvement. In 2011, the subcommittee worked with the Criminal Defense Attorneys of Michigan (CDAM) to educate and increase defense attorney involvement in drug treatment court programs. The subcommittee also worked to spread the news that the Michigan Association of Drug Court Professionals (MADCP) is providing scholarships to any attorney who wishes to attend the March 2012 MADCP annual conference.

### **Funding Alternatives Subcommittee**

*Members: Judge Harvey Hoffman (Chair), Dawn Monk*

This subcommittee continued to review funding alternatives for drug treatment courts in Michigan.



### **Juvenile Issues Subcommittee**

*Members: Pamela Davis (Chair), Judge William Ervin, Jim Inloes, Robert Nida, Dr. Jessica Parks, Jennifer Warner*

Created at the September 26, 2006 meeting, this subcommittee is charged with reviewing the differences inherent to juvenile drug court and family court. Recruiting membership from several state agencies, the objectives of the subcommittee include examination of the current drug court legislation and how the legislation differs from juvenile court procedures and promotion of juvenile drug courts as unique, adolescent-specific therapeutic jurisprudence interventions. The Michigan Juvenile Justice 2020 Planning Initiative which proposes to revamp the juvenile court system is another area the subcommittee focused on in 2011.

### **Legislative Subcommittee**

*Members: Judge Harvey Hoffman (Chair), Judge Amy Ronayne Krause, Jeffrey Sauter*

This subcommittee was created at the July 23, 2010 Strategic Planning Session and monitors legislative activities. Drug treatment court issues that saw legislative action in 2011 included the introduction of legislation that deals with the addition of veterans' treatment courts and changes to the statute dealing with discharge and dismissal proceedings against drug court participants.

### **Medical Marihuana Subcommittee**

*Members: Jeffrey Sauter (Chair), Pamela Davis, Judge Harvey Hoffman, Judge Brian MacKenzie*

This subcommittee was created at the May 24, 2011 meeting to review issues pertaining to drug court participants and the enactment of the Michigan Medical Marihuana Act.

### **Prosecutor Gatekeeper Subcommittee**

*Members: Jeffrey Sauter (Chair), Pamela Davis, Judge Harvey Hoffman, Judge Brian MacKenzie,*

This subcommittee was created at the July 28, 2009 meeting. With the enactment of Public Act 177 of 2010, the prosecutor gatekeeper issued has been addressed and the subcommittee was dissolved by action taken at the January 25, 2011 full committee meeting.

### **Recidivism Subcommittee**

*Members: Richard Woods (Chair)*

This subcommittee was created at the May 24, 2011 meeting to monitor recidivism issues and to develop a standard definition for recidivism.

### **Vision Subcommittee**

*Members: Judge Patrick Bowler (Chair), Judge William Rush (Chair as of July 26, 2011), Pamela Davis, Judge Harvey Hoffman, Judge Brian MacKenzie, Jeffrey Sauter, Richard Woods*

This subcommittee was renamed at the July 26, 2011 full committee meeting and continues to monitor the long range goals of drug treatment courts.

### **Veterans' Treatment Court Ad Hoc Committee**

*Members: Judge Brian MacKenzie (Chair)*

This ad hoc committee was created at the May 24, 2011 meeting to work on a proposal to authorize circuit and district courts to establish veterans' treatment courts.



# ISSUES REVIEWED AND RECOMMENDATIONS

## DIVERSION LEGISLATION

In September 2011, several bills were introduced in the Senate to amend statutes that offer diversion programs and dismissal from criminal charges for certain violations. Senate Bill 630 would amend the drug court statute to allow a court to discharge and dismiss proceedings against a drug court participant who meets certain criteria, without entering a guilty plea. These bills make diversions non-public from the date of the plea, rather than at the end of probation. The Committee followed the diversion issue closely throughout 2011 and strongly supports the efforts made to enact the proposed changes. The bills have been reported by the Senate Judiciary Committee and are currently pending before the Senate Committee of the Whole.

## DRUG TREATMENT COURT PARTICIPANT TRANSFER PROCEDURES

Public Act 620 of 2006 revised the drug treatment court statute to allow the cross assignment of drug court cases; however, questions pertaining to the case management, funding, and reporting requirements of such cross assignments remain. Review of drug treatment court participant transfer procedures and work by the Committee to help draft a model order for transferring drug court participants continued in 2011. No final recommendation for statutory changes is made at this time; however, the Committee will continue working in 2012 to collaborate with stakeholders to develop a consensus on this issue.

## MICHIGAN MEDICAL MARIHUANA ACT

In 2008, Michigan voters approved an initiative to allow a person who has been diagnosed with a debilitating medical condition to possess and use marihuana to alleviate his or her symptoms or side effects of treatment. Concerns of the potential use of medical marihuana by drug court participants while on probation led to the SDTCAC review of this issue in 2011. The subcommittee determined the probation statute is very clear that the use of medical marihuana while on probation is prohibited. No statutory changes are required to address this particular issue; however, the subcommittee indicated there may be a need for legislative action to clarify what a “bona-fide” patient-doctor relationship is and what constitutes a chronic debilitating condition.

## VETERANS’ TREATMENT COURTS

The establishment and expansion of veterans’ treatment courts generated significant interest in 2011. At the May 24, 2011 SDTCAC meeting, an ad hoc committee was formed to review and develop a recommendation that could be made to the legislature. Led by the Honorable Brian MacKenzie, the ad hoc committee worked with others to come up with a proposal that would establish drug courts to provide treatment programs specifically for veterans who are substance abusers or mentally ill. In November 2011, House Bill 5159 was introduced and amends the drug treatment court statute to add a circuit or district court judge who had presided over a veterans’ treatment court to the Committee and requires the Committee to monitor the effectiveness of veterans’ treatment courts and present annual recommendations regarding them to the Legislature and Supreme Court. House Bill 5162 was also introduced and establishes a uniform framework and provisions modeled after the drug court enabling legislation for veterans’ courts. Both bills are currently pending before the House Judiciary Committee.

